

**BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

LYNN MARIE MARTIN HOFFMAN
3903 Eastland Lake Drive
Richmond, TX 77469

Registered Nurse License No. 425202

Respondent.

Case No. 2007-84

OAH No. L-2007030674

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on November 30, 2007.

It is so ORDERED October 30, 2007.

LaTranene White

FOR THE BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 MARC D. GREENBAUM, State Bar No. 138213
Supervising Deputy Attorney General
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300 So. Spring Street, Suite 1702
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7 Attorneys for Complainant

8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. 2007-84

12 LYNN MARIE MARTIN HOFFMAN
3903 Eastland Lake Drive
13 Richmond, TX 77469

OAH No. L-2007030674

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

14
15 Registered Nurse License No. 425202

16 Respondent.

17
18 IT IS HEREBY STIPULATED AND AGREED by and between the parties
19 to the above-entitled proceedings that the following matters are true:

20 PARTIES

21 1. Ruth Ann Terry, M.P.H, R.N. (Complainant) is the Executive Officer
22 of the Board of Registered Nursing. She brought this action solely in her official capacity
23 and is represented in this matter by Edmund G. Brown Jr., Attorney General of the State of
24 California, by Jami L. Cantore, Deputy Attorney General.

25 2. Lynn Marie Martin Hoffman (Respondent) is representing herself in
26 this proceeding and has chosen not to exercise her right to be represented by counsel.

27 3. On or about April 30, 1988, the Board of Registered Nursing issued
28 Registered Nurse License No. 425202 to Respondent Lynn Marie Martin Hoffman. The

1 License was in full force and effect at all times relevant to the charges brought in Accusation
2 No. 2007-84, and expired on May 31, 2006.

3 JURISDICTION

4 4. Accusation No. 2007-84 was filed on September 29, 2006, before the
5 Board of Registered Nursing (Board), Department of Consumer Affairs, and is currently
6 pending against Respondent. The Accusation and all other statutorily required documents
7 were properly served on Respondent on October 12, 2006. Respondent timely filed her
8 Notice of Defense contesting the Accusation. A copy of Accusation No. 2007-84 is attached
9 as Exhibit A and incorporated herein by reference.

10 ADVISEMENT AND WAIVERS

11 5. Respondent has carefully read and understands the charges and
12 allegations in Accusation No. 2007-84. Respondent has also carefully read and fully
13 understands the effects of this Stipulated Settlement and Disciplinary Order.

14 6. Respondent is fully aware of her legal rights in this matter, including
15 the right to a hearing on the charges and allegations in the Accusation; the right to be
16 represented by counsel at her own expense; the right to confront and cross-examine the
17 witnesses against her; the right to present evidence and to testify on her own behalf; the right
18 to the issuance of subpoenas to compel the attendance of witnesses and the production of
19 documents; the right to reconsideration and court review of an adverse decision; and all
20 other rights accorded by the California Administrative Procedure Act and other applicable
21 laws.

22 7. Respondent voluntarily, knowingly, and intelligently waives and gives
23 up each and every right set forth above.

24 CULPABILITY

25 8. Respondent admits the truth of each and every charge and allegation
26 in Accusation No. 2007-84.

27 9. Respondent agrees that her Registered Nurse License is subject to
28 discipline, and she agrees to be bound by the Board of Registered Nursing's imposition of

1 discipline as set forth in the Disciplinary Order below.

2 CIRCUMSTANCES IN MITIGATION

3 10. Respondent Lynn Marie Martin Hoffman has never been the subject
4 of any disciplinary action. She is admitting responsibility at an early stage in the
5 proceedings.

6 RESERVATION

7 11. The admissions made by Respondent herein are only for the purposes
8 of this proceeding, or any other proceedings in which the Board of Registered Nursing or
9 other professional licensing agency is involved, and shall not be admissible in any other
10 criminal or civil proceeding.

11 CONTINGENCY

12 12. This stipulation shall be subject to approval by the Board of
13 Registered Nursing. Respondent understands and agrees that counsel for Complainant and
14 the staff of the Board of Registered Nursing may communicate directly with the Board
15 regarding this stipulation and settlement, without notice to or participation by Respondent.
16 By signing the stipulation, Respondent understands and agrees that she may not withdraw
17 her agreement or seek to rescind the stipulation prior to the time the Board considers and
18 acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the
19 Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this
20 paragraph, it shall be inadmissible in any legal action between the parties, and the Board
21 shall not be disqualified from further action by having considered this matter.

22 OTHER MATTERS

23 13. The parties understand and agree that facsimile copies of this
24 Stipulated Settlement and Disciplinary Order, including facsimile signatures thereto, shall
25 have the same force and effect as the originals.

26 DISCIPLINARY ORDER

27 In consideration of the foregoing admissions and stipulations, the parties
28 agree that the Board may, without further notice or formal proceeding, issue and enter the

1 following Disciplinary Order:

2 IT IS HEREBY ORDERED that Registered Nurse License No. 425202
3 issued to Respondent Lynn Marie Martin Hoffman is revoked. However, the revocation is
4 stayed and Respondent is placed on probation for three (3) years on the following terms and
5 conditions.

6 **Severability Clause.** Each condition of probation contained herein is a
7 separate
8 and distinct condition. If any condition of this Order, or any application thereof, is declared
9 unenforceable in whole, in part, or to any extent, the remainder of this Order, and all other
10 applications thereof, shall not be affected. Each condition of this Order shall separately be
11 valid and enforceable to the fullest extent permitted by law.

12 1. **Obey All Laws.** Respondent shall obey all federal, state and local
13 laws. A full and detailed account of any and all violations of law shall be reported by
14 Respondent to the Board in writing within seventy-two (72) hours of occurrence. To permit
15 monitoring of compliance with this condition, Respondent shall submit completed
16 fingerprint forms and fingerprint fees within 45 days of the effective date of the decision,
17 unless previously submitted as part of the licensure application process.

18 **Criminal Court Orders:** If Respondent is under criminal court orders,
19 including probation or parole, and the order is violated, this shall be deemed a violation of
20 these probation conditions, and may result in the filing of an accusation and/or petition to
21 revoke probation.

22 2. **Comply with the Board's Probation Program.** Respondent shall
23 fully comply with the conditions of the Probation Program established by the Board and
24 cooperate with representatives of the Board in its monitoring and investigation of the
25 Respondent's compliance with the Board's Probation Program. Respondent shall inform the
26 Board in writing within no more than 15 days of any address change and shall at all times
27 maintain an active, current license status with the Board, including during any period of
28 suspension.

1 Upon successful completion of probation, Respondent's license shall be fully
2 restored.

3 3. **Report in Person.** Respondent, during the period of probation, shall
4 appear in person at interviews/meetings as directed by the Board or its designated
5 representatives.

6
7 4. **Residency, Practice, or Licensure Outside of State.** Periods of
8 residency or practice as a registered nurse outside of California shall not apply toward a
9 reduction of this probation time period. Respondent's probation is tolled if and when she
10 resides outside of California. Respondent must provide written notice to the Board within 15
11 days of any change of residency or practice outside the state, and within 30 days prior to re-
12 establishing residency or returning to practice in this state.

13 Respondent shall provide a list of all states and territories where she has ever
14 been licensed as a registered nurse, vocational nurse, or practical nurse. Respondent shall
15 further provide information regarding the status of each license and any changes in such
16 license status during the term of probation. Respondent shall inform the Board if she applies
17 for or obtains a new nursing license during the term of probation.

18 5. **Submit Written Reports.** Respondent, during the period of
19 probation, shall submit or cause to be submitted such written reports/declarations and
20 verification of actions under penalty of perjury, as required by the Board. These
21 reports/declarations shall contain statements relative to Respondent's compliance with all
22 the conditions of the Board's Probation Program. Respondent shall immediately execute all
23 release of information forms as may be required by the Board or its representatives.

24 Respondent shall provide a copy of this Decision to the nursing regulatory
25 agency in every state and territory in which she has a registered nurse license.

26 6. **Function as a Registered Nurse.** Respondent, during the period of
27 probation, shall engage in the practice of registered nursing in California for a minimum of
28 24 hours per week for 6 consecutive months or as determined by the Board.

1 For purposes of compliance with the section, "engage in the practice of
2 registered nursing" may include, when approved by the Board, volunteer work as a
3 registered nurse, or work in any non-direct patient care position that requires licensure as a
4 registered nurse.

5 The Board may require that advanced practice nurses engage in advanced
6 practice nursing for a minimum of 24 hours per week for 6 consecutive months or as
7 determined by the Board.

8 If Respondent has not complied with this condition during the probationary
9 term, and Respondent has presented sufficient documentation of her good faith efforts to
10 comply with this condition, and if no other conditions have been violated, the Board, in its
11 discretion, may grant an extension of Respondent's probation period up to one year without
12 further hearing in order to comply with this condition. During the one year extension, all
13 original conditions of probation shall apply.

14 **7. Employment Approval and Reporting Requirements.** Respondent
15 shall obtain prior approval from the Board before commencing or continuing any
16 employment, paid or voluntary, as a registered nurse. Respondent shall cause to be
17 submitted to the Board all performance evaluations and other employment related reports as
18 a registered nurse upon request of the Board.

19 Respondent shall provide a copy of this Decision to her employer and
20 immediate supervisors prior to commencement of any nursing or other health care related
21 employment.

22 In addition to the above, Respondent shall notify the Board in writing within
23 seventy-two (72) hours after she obtains any nursing or other health care related
24 employment. Respondent shall notify the Board in writing within seventy-two (72) hours
25 after she is terminated or separated, regardless of cause, from any nursing, or other health
26 care related employment with a full explanation of the circumstances surrounding the
27 termination or separation.

28 **8. Supervision.** Respondent shall obtain prior approval from the Board

1 regarding Respondent's level of supervision and/or collaboration before commencing or
2 continuing any employment as a registered nurse, or education and training that includes
3 patient care.

4 Respondent shall practice only under the direct supervision of a registered
5 nurse in good standing (no current discipline) with the Board of Registered Nursing, unless
6 alternative methods of supervision and/or collaboration (e.g., with an advanced practice
7 nurse or physician) are approved.

8 Respondent's level of supervision and/or collaboration may include, but is
9 not limited to the following:

10 (a) Maximum - The individual providing supervision and/or collaboration
11 is present in the patient care area or in any other work setting at all times.

12 (b) Moderate - The individual providing supervision and/or collaboration
13 is in the patient care unit or in any other work setting at least half the hours Respondent
14 works.

15 (c) Minimum - The individual providing supervision and/or collaboration
16 has person-to-person communication with Respondent at least twice during each shift
17 worked.

18 (d) Home Health Care - If Respondent is approved to work in the home
19 health care setting, the individual providing supervision and/or collaboration shall have
20 person-to-person communication with Respondent as required by the Board each work day.
21 Respondent shall maintain telephone or other telecommunication contact with the individual
22 providing supervision and/or collaboration as required by the Board during each work day.
23 The individual providing supervision and/or collaboration shall conduct, as required by the
24 Board, periodic, on-site visits to patients' homes visited by Respondent with or without
25 Respondent present.

26 9. **Employment Limitations.** Respondent shall not work for a nurse's
27 registry, in any private duty position as a registered nurse, a temporary nurse placement
28 agency, a traveling nurse, or for an in-house nursing pool.

1 Respondent shall not work for a licensed home health agency as a visiting
2 nurse unless the registered nursing supervision and other protections for home visits have
3 been approved by the Board. Respondent shall not work in any other registered nursing
4 occupation where home visits are required.

5 Respondent shall not work in any health care setting as a supervisor of
6 registered nurses. The Board may additionally restrict Respondent from supervising
7 licensed vocational nurses and/or unlicensed assistive personnel on a case-by-case basis.

8 Respondent shall not work as a faculty member in an approved school of
9 nursing or as an instructor in a Board approved continuing education program.

10 Respondent shall work only on a regularly assigned, identified and
11 predetermined worksite(s) and shall not work in a float capacity.

12 If Respondent is working or intends to work in excess of 40 hours per week,
13 the Board may request documentation to determine whether there should be restrictions on
14 the hours of work.

15 10. **Complete a Nursing Course(s).** Respondent, at her own expense,
16 shall enroll and successfully complete a course(s) relevant to the practice of registered
17 nursing no later than six months prior to the end of her probationary term.

18 Respondent shall obtain prior approval from the Board before enrolling in the
19 course(s). Respondent shall submit to the Board the original transcripts or certificates of
20 completion for the above required course(s). The Board shall return the original documents
21 to Respondent after photocopying them for its records.

22 11. **Cost Recovery.** Respondent shall pay to the Board costs associated
23 with its investigation and enforcement pursuant to Business and Professions Code section
24 125.3 in the amount of \$10,909.00. Respondent shall be permitted to pay these costs in a
25 payment plan approved by the Board, with payments to be completed no later than three
26 months prior to the end of the probation term.

27 If Respondent has not complied with this condition during the probationary
28 term, and Respondent has presented sufficient documentation of her good faith efforts to

1 comply with this condition, and if no other conditions have been violated, the Board, in its
2 discretion, may grant an extension of Respondent's probation period up to one year without
3 further hearing in order to comply with this condition. During the one year extension, all
4 original conditions of probation will apply.

5 **12. Violation of Probation.** If Respondent violates the conditions of her
6 probation, the Board after giving Respondent notice and an opportunity to be heard, may set
7 aside the stay order and impose the stayed discipline (revocation) of Respondent's license.

8 If during the period of probation, an accusation or petition to revoke
9 probation has been filed against Respondent's license or the Attorney General's Office has
10 been requested to prepare an accusation or petition to revoke probation against Respondent's
11 license, the probationary period shall automatically be extended and shall not expire until
12 the accusation or petition has been acted upon by the Board.

13 **13. License Surrender.** During Respondent's term of probation, if she
14 ceases practicing due to retirement, health reasons or is otherwise unable to satisfy the
15 conditions of probation, Respondent may surrender her license to the Board. The Board
16 reserves the right to evaluate Respondent's request and to exercise its discretion whether to
17 grant the request, or to take any other action deemed appropriate and reasonable under the
18 circumstances, without further hearing. Upon formal acceptance of the tendered license and
19 wall certificate, Respondent will no longer be subject to the conditions of probation.

20 Surrender of Respondent's license shall be considered a disciplinary action
21 and shall become a part of Respondent's license history with the Board. A registered nurse
22 whose license has been surrendered may petition the Board for reinstatement no sooner than
23 the following minimum periods from the effective date of the disciplinary decision:

24 (1) Two years for reinstatement of a license that was surrendered for any
25 reason other than a mental or physical illness; or

26 (2) One year for a license surrendered for a mental or physical illness.

27 **14. Physical Examination.** Within 45 days of the effective date of this
28 Decision, Respondent, at her expense, shall have a licensed physician, nurse practitioner, or

1 physician assistant, who is approved by the Board before the assessment is performed,
2 submit an assessment of the Respondent's physical condition and capability to perform the
3 duties of a registered nurse. Such an assessment shall be submitted in a format acceptable to
4 the Board. If medically determined, a recommended treatment program will be instituted
5 and followed by the Respondent with the physician, nurse practitioner, or physician assistant
6 providing written reports to the Board on forms provided by the Board.

7 If Respondent is determined to be unable to practice safely as a registered
8 nurse, the licensed physician, nurse practitioner, or physician assistant making this
9 determination shall immediately notify the Board and Respondent by telephone, and the
10 Board shall request that the Attorney General's office prepare an accusation or petition to
11 revoke probation. Respondent shall immediately cease practice and shall not resume
12 practice until notified by the Board. During this period of suspension, Respondent shall not
13 engage in any practice for which a license issued by the Board is required until the Board
14 has notified Respondent that a medical determination permits Respondent to resume
15 practice. This period of suspension will not apply to the reduction of this probationary time
16 period.

17 If Respondent fails to have the above assessment submitted to the Board
18 within the 45-day requirement, Respondent shall immediately cease practice and shall not
19 resume practice until notified by the Board. This period of suspension will not apply to the
20 reduction of this probationary time period. The Board may waive or postpone this
21 suspension only if significant, documented evidence of mitigation is provided. Such
22 evidence must establish good faith efforts by Respondent to obtain the assessment, and a
23 specific date for compliance must be provided. Only one such waiver or extension may be
24 permitted.

25 **15. Participate in Treatment/Rehabilitation Program for Chemical**
26 **Dependence.** Respondent, at her expense, shall successfully complete during the
27 probationary period or shall have successfully completed prior to commencement of
28 probation a Board-approved treatment/rehabilitation program of at least six months duration.

1 As required, reports shall be submitted by the program on forms provided by the Board. If
2 Respondent has not completed a Board-approved treatment/rehabilitation program prior to
3 commencement of probation, Respondent, within 45 days from the effective date of the
4 decision, shall be enrolled in a program. If a program is not successfully completed within
5 the first nine months of probation, the Board shall consider Respondent in violation of
6 probation.

7 Based on Board recommendation, each week Respondent shall be required to
8 attend at least one, but no more than five 12-step recovery meetings or equivalent (e.g.,
9 Narcotics Anonymous, Alcoholics Anonymous, etc.) and a nurse support group as approved
10 and directed by the Board. If a nurse support group is not available, an additional 12-step
11 meeting or equivalent shall be added. Respondent shall submit dated and signed
12 documentation confirming such attendance to the Board during the entire period of
13 probation. Respondent shall continue with the recovery plan recommended by the
14 treatment/rehabilitation program or a licensed mental health examiner and/or other ongoing
15 recovery groups.

16 **16. Abstain from Use of Controlled Substances and Psychotropic**
17 **(Mood-Altering) Drugs.** Respondent shall completely abstain from the possession,
18 injection or consumption by any route of all controlled substances and all psychotropic
19 (mood altering) drugs, including alcohol, except when the same are ordered by a health care
20 professional legally authorized to do so as part of documented medical treatment.
21 Respondent shall have sent to the Board, in writing and within fourteen (14) days, by the
22 prescribing health professional, a report identifying the medication, dosage, the date the
23 medication was prescribed, the Respondent's prognosis, the date the medication will no
24 longer be required, and the effect on the recovery plan, if appropriate.

25 Respondent shall identify for the Board a single physician, nurse practitioner
26 or physician assistant who shall be aware of Respondent's history of substance abuse and
27 will coordinate and monitor any prescriptions for Respondent for dangerous drugs,
28 controlled substances or mood-altering drugs. The coordinating physician, nurse

1 practitioner, or physician assistant shall report to the Board on a quarterly basis
2 Respondent's compliance with this condition. If any substances considered addictive have
3 been prescribed, the report shall identify a program for the time limited use of any such
4 substances.

5 The Board may require the single coordinating physician, nurse practitioner,
6 or physician assistant to be a specialist in addictive medicine, or to consult with a specialist
7 in addictive medicine.

8 **17. Submit to Tests and Samples.** Respondent, at her expense, shall
9 participate in a random, biological fluid testing or a drug screening program which the
10 Board approves. The length of time and frequency will be subject to approval by the Board.
11 Respondent is responsible for keeping the Board informed of Respondent's current
12 telephone number at all times. Respondent shall also ensure that messages may be left at the
13 telephone number when she is not available and ensure that reports are submitted directly by
14 the testing agency to the Board, as directed. Any confirmed positive finding shall be
15 reported immediately to the Board by the program and Respondent shall be considered in
16 violation of probation.

17 In addition, Respondent, at any time during the period of probation, shall
18 fully cooperate with the Board or any of its representatives, and shall, when requested,
19 submit to such tests and samples as the Board or its representatives may require for the
20 detection of alcohol, narcotics, hypnotics, dangerous drugs, or other controlled substances.

21 If Respondent has a positive drug screen for any substance not legally
22 authorized and not reported to the coordinating physician, nurse practitioner, or physician
23 assistant, and the Board files a petition to revoke probation or an accusation, the Board may
24 suspend Respondent from practice pending the final decision on the petition to revoke
25 probation or the accusation. This period of suspension will not apply to the reduction of this
26 probationary time period.

27 If Respondent fails to participate in a random, biological fluid testing or drug
28 screening program within the specified time frame, Respondent shall immediately cease

1 practice and shall not resume practice until notified by the Board. After taking into account
2 documented evidence of mitigation, if the Board files a petition to revoke probation or an
3 accusation, the Board may suspend Respondent from practice pending the final decision on
4 the petition to revoke probation or the accusation. This period of suspension will not apply
5 to the reduction of this probationary time period.

6 **18. Mental Health Examination.** Respondent shall, within 45 days of
7 the effective date of this Decision, have a mental health examination including
8 psychological testing as appropriate to determine her capability to perform the duties of a
9 registered nurse. The examination will be performed by a psychiatrist, psychologist or other
10 licensed mental health practitioner approved by the Board. The examining mental health
11 practitioner will submit a written report of that assessment and recommendations to the
12 Board. All costs are the responsibility of Respondent. Recommendations for treatment,
13 therapy or counseling made as a result of the mental health examination will be instituted
14 and followed by Respondent.

15 If Respondent is determined to be unable to practice safely as a registered
16 nurse, the licensed mental health care practitioner making this determination shall
17 immediately notify the Board and Respondent by telephone, and the Board shall request that
18 the Attorney General's office prepare an accusation or petition to revoke probation.
19 Respondent shall immediately cease practice and may not resume practice until notified by
20 the Board. During this period of suspension, Respondent shall not engage in any practice
21 for which a license issued by the Board is required, until the Board has notified Respondent
22 that a mental health determination permits Respondent to resume practice. This period of
23 suspension will not apply to the reduction of this probationary time period.

24 If Respondent fails to have the above assessment submitted to the Board
25 within the 45-day requirement, Respondent shall immediately cease practice and shall not
26 resume practice until notified by the Board. This period of suspension will not apply to the
27 reduction of this probationary time period. The Board may waive or postpone this
28 suspension only if significant, documented evidence of mitigation is provided. Such

evidence must establish good faith efforts by Respondent to obtain the assessment, and a specific date for compliance must be provided. Only one such waiver or extension may be permitted.

19. **Therapy or Counseling Program.** Respondent, at her expense, shall participate in an on-going counseling program until such time as the Board releases her from this requirement and only upon the recommendation of the counselor. Written progress reports from the counselor will be required at various intervals.

ACCEPTANCE

I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the stipulation and the effect it will have on my Registered Nurse License. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Registered Nursing.

DATED:

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LYNN MARIE MARTIN HOFFMAN
Respondent

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ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board of Registered Nursing of the Department of Consumer Affairs.

DATED: 8/27/07

EDMUND G. BROWN JR., Attorney General
of the State of California

MARC D. GREENBAUM
Supervising Deputy Attorney General


JAMI L. CANTORE
Deputy Attorney General

Attorneys for Complainant

DOJ Matter ID: LA2006600372
hoffman m.wpd

Exhibit A
Accusation No. 2007-84

1 BILL LOCKYER, Attorney General
of the State of California
2 JAMI L. CANTORE, State Bar No. 165410
Deputy Attorney General
3 California Department of Justice
300 So. Spring Street, Suite 1702
4 Los Angeles, CA 90013
Telephone: (213) 897-2569
5 Facsimile: (213) 897-2804

6 Attorneys for Complainant

7 **BEFORE THE**
8 **BOARD OF REGISTERED NURSING**
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

Case No. 2007-84

11 LYNN MARIE MARTIN HOFFMAN
a.k.a., LYNN MARIE MARTIN
12 3903 Eastland Lake Drive
Richmond, TX 77469

A C C U S A T I O N

13 Registered Nurse License No. 425202

14 Respondent.

15
16 Complainant alleges:

17 PARTIES

18 1. Ruth Ann Terry, M.P.H., R.N. (Complainant) brings this Accusation
19 solely in her official capacity as the Executive Officer of the Board of Registered Nursing
20 (Board), Department of Consumer Affairs.

21 2. On or about April 30, 1988, the Board issued Registered Nurse License
22 No. 425202 to Lynn Marie Martin Hoffman, also known as Lynn Marie Martin (Respondent).
23 The Registered Nurse License was in full force and effect at all times relevant to the charges
24 brought herein. Registered Nurse License No. 425202 expired on May 31, 2006, and has not
25 been renewed.

26 JURISDICTION

27 3. This Accusation is brought before the Board, under the authority of the
28 following laws. All section references are to the Business and Professions Code unless otherwise

1 indicated.

2 STATUTORY PROVISIONS

3 4. Section 2750 of the Business and Professions Code (Code) provides, in
4 pertinent part, that the Board may discipline any licensee, including a licensee holding a
5 temporary or an inactive license, for any reason provided in Article 3 (commencing with section
6 2750) of the Nursing Practice Act.

7 5. Section 2764 of the Code provides, in pertinent part, that the expiration of
8 a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding
9 against the licensee or to render a decision imposing discipline on the license. Under section
10 2811(b) of the Code, the Board may renew an expired license at any time within eight years after
11 the expiration.

12 6. Section 2761 of the Code states:

13 "The board may take disciplinary action against a certified or licensed nurse or
14 deny an application for a certificate or license for any of the following:

15 "(a) Unprofessional conduct, which includes, but is not limited to, the following:

16 "(1) Incompetence, or gross negligence in carrying out usual certified or licensed
17 nursing functions.

18

19 "(d) Violating or attempting to violate, directly or indirectly, or assisting in or
20 abetting the violating of, or conspiring to violate any provision or term of this chapter [the
21 Nursing Practice Act] or regulations adopted pursuant to it."

22 7. Section 2762 of the Code states:

23 "In addition to other acts constituting unprofessional conduct within the meaning
24 of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed
25 under this chapter to do any of the following:

26 "(a) Obtain or possess in violation of law, or prescribe, or except as directed by a
27 licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish
28 or administer to another, any controlled substance as defined in Division 10 (commencing with

1 Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as
2 defined in Section 4022.

3 "(b) Use any controlled substance as defined in Division 10 (commencing with
4 Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as
5 defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or
6 injurious to himself or herself, any other person, or the public or to the extent that such use
7 impairs his or her ability to conduct with safety to the public the practice authorized by his or her
8 license.

9

10 "(e) Falsify, or make grossly incorrect, grossly inconsistent, or unintelligible
11 entries in any hospital, patient, or other record pertaining to the substances described in
12 subdivision (a) of this section."

13 8. Health and Safety Code section 11170 states: "No person shall prescribe,
14 administer, or furnish a controlled substance for himself."

15 9. Health and Safety Code section 11171 states: "No person shall prescribe,
16 administer, or furnish a controlled substance except under the conditions and in the manner
17 provided by this division."

18 10. Health and Safety Code section 11173 states:

19 "(a) No person shall obtain or attempt to obtain controlled substances, or procure
20 or attempt to procure the administration of or prescription for controlled substances, (1) by fraud,
21 deceit, misrepresentation, or subterfuge; or (2) by the concealment of a material fact.

22 "(b) No person shall make a false statement in any prescription, order, report, or
23 record, required by this division."

24 11. California Code of Regulations, title 16, section 1442 states:

25 "As used in Section 2761 of the Code, 'gross negligence' includes an extreme
26 departure from the standard of care, which, under similar circumstances, would have ordinarily
27 been exercised by a competent registered nurse. Such an extreme departure means the failure to
28 provide nursing care as required or failure to provide care or to exercise ordinary precaution in a

1 single situation in which the nurse knew, or should have known, could have jeopardized the
2 client's health or life."

3 12. California Code of Regulations, title 16, section 1443 states:

4 "As used in Section 2761 of the code, 'incompetence' means the lack of
5 possession of or the failure to exercise that degree of learning, skill, care and experience
6 ordinarily possessed and exercised by a competent registered nurse as described in Section
7 1443.5."

8 13. California Code of Regulations, title 16, section 1443.5, states:

9 "A registered nurse shall be considered to be competent when he/she consistently
10 demonstrates the ability to transfer scientific knowledge from social, biological and physical
11 sciences in applying the nursing process, as follows:

12 "(1) Formulates a nursing diagnosis through observation of the client's physical
13 condition and behavior, and through interpretation of information obtained from the client and
14 others, including the health team.

15 "(2) Formulates a care plan, in collaboration with the client, which ensures that
16 direct and indirect nursing care services provide for the client's safety, comfort, hygiene, and
17 protection, and for disease prevention and restorative measures.

18 "(3) Performs skills essential to the kind of nursing action to be taken, explains
19 the health treatment to the client and family and teaches the client and family how to care for the
20 client's health needs.

21 "(4) Delegates tasks to subordinates based on the legal scopes of practice of the
22 subordinates and on the preparation and capability needed in the tasks to be delegated, and
23 effectively supervises nursing care being given by subordinates.

24 "(5) Evaluates the effectiveness of the care plan through observation of the client's
25 physical condition and behavior, signs and symptoms of illness, and reactions to treatment and
26 through communication with the client and health team members, and modifies the plan as
27 needed.

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1 "(6) Acts as the client's advocate, as circumstances require, by initiating action to
2 improve health care or to change decisions or activities which are against the interests or wishes
3 of the client, and by giving the client the opportunity to make informed decisions about health
4 care before it is provided."

5 14. Section 125.3 of the Code provides, in pertinent part, that the Board may
6 request the administrative law judge to direct a licentiate found to have committed a violation or
7 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
8 and enforcement of the case.

9 15. CONTROLLED SUBSTANCES

10 "Morphine Sulfate," is a preparation of morphine, the principal alkaloid of opium.
11 It is a Schedule II controlled substance as designated by Health and Safety Code section
12 11055(b)(1)(M) and is categorized as a "dangerous drug" pursuant to Business and Professions
13 Code section 4022.

14 16. DEFINITIONS

15 "Pyxis" is a computerized automated medication system with operates similarly to
16 an automated teller machine at a bank. Medications can be withdrawn from the Pyxis machines
17 only by an authorized staff person using his or her own personalized access code. The Pyxis
18 machine makes a record of the medication and dose, date and time it was withdrawn, the user
19 identification, and the patient for whom it was withdrawn.

20 FIRST CAUSE FOR DISCIPLINE

21 (Unprofessional Conduct: Falsification of Hospital Records)

22 17. Respondent's license is subject to disciplinary action under section 2761,
23 subdivisions (a) and (d), on the grounds of unprofessional conduct as defined in section 2762,
24 subdivision (e), for violating Health and Safety Code section 11173, subdivisions (a) and (b), in
25 that while employed as a registered nurse at Kaiser Permanente in Woodland Hills, CA,
26 Respondent falsified, made grossly incorrect, grossly inconsistent, or unintelligible entries in
27 hospital and patient records pertaining to controlled substances and dangerous drugs in the
28 following respects:

Patient No. 9498718

a. On or about April 13, 2004, at 0700 hours, Respondent removed Morphine Sulfate 10 mg./1 ml. vial from the Pyxis, for patient no. 9498718. Respondent failed to chart the administration of Morphine Sulfate 10 mg./1 ml. vial in the patient's Medication Administration Record ("MAR") and failed to document the administration in the Critical Care Patient Care Flow Record ("CCPCFR"). Respondent failed to record the waste or to otherwise account for 10mg. of Morphine Sulfate.

Patient No. 562713

b. On or about April 13, 2004, at 2012 hours, Respondent removed Morphine Sulfate 10 mg./1 ml. vial from the Pyxis, for patient no. 562713. Respondent failed to chart the administration of Morphine Sulfate 10 mg./1 ml. vial in the patient's MAR and failed to document the administration in the CCPCFR. Respondent failed to record the waste or to otherwise account for Morphine Sulfate 10 mg./1 ml. vial.

Patient No. 1618300

c. On or about April 17, 2004, at 1940 hours, Respondent removed Morphine Sulfate 10 mg./1 ml. vial from the Pyxis, for patient no. 1618300. Respondent failed to chart the administration of Morphine Sulfate 10 mg./1 ml. vial in the patient's MAR and failed to document the administration in the CCPCFR. Respondent failed to record the waste or to otherwise account for Morphine Sulfate 2 mg.

Patient No. 15722940

d. On or about April 23, 2004, at 0649 hours, Respondent removed Morphine Sulfate 10 mg./1 ml. vial from the Pyxis, for patient no. 15722940. Respondent failed to chart the administration of Morphine Sulfate 10 mg./1 ml. vial in the patient's MAR and failed to document the administration in the CCPCFR. Respondent failed to record the waste or to otherwise account for Morphine Sulfate 10 mg.

Patient No. 10873340

e. On or about April 25, 2004, at 0658 hours, Respondent removed Morphine Sulfate 10 mg./1 ml. vial from the Pyxis, for patient no. 10873340. Respondent failed to chart

1 the administration of Morphine Sulfate 10 mg./1 ml. vial in the patient's MAR and failed to
2 document the administration in the CCPCFR. Respondent failed to record the waste or to
3 otherwise account for Morphine Sulfate 10 mg.

4 f. On or about April 25, 2004, at 2214 hours, Respondent removed Morphine
5 Sulfate 10 mg./1 ml. vial from the Pyxis, for patient no. 10873340. Respondent failed to chart
6 the administration of Morphine Sulfate 10 mg./1 ml. vial in the patient's MAR and failed to
7 document the administration in the CCPCFR. Respondent failed to record the waste or to
8 otherwise account for Morphine Sulfate 10 mg.

9 g. On or about April 26, 2004, at 0628 hours, Respondent removed Morphine
10 Sulfate 10 mg./1 ml. vial from the Pyxis, for patient no. 10873340. Respondent failed to chart
11 the administration of Morphine Sulfate 10 mg./1 ml. vial in the patient's MAR and failed to
12 document the administration in the CCPCFR. Respondent failed to record the waste or to
13 otherwise account for Morphine Sulfate 2 mg.

14 Patient No. 16599937

15 h. On or about April 30, 2004, at 2356 hours, Respondent removed Morphine
16 Sulfate 10 mg./1 ml. vial from the Pyxis, for patient no. 16599937. Respondent failed to chart
17 the administration of Morphine Sulfate 10 mg./1 ml. vial in the patient's MAR and failed to
18 document the administration in the CCPCFR. Respondent documented that patient had no
19 complaint of pain on the pain assessment portion of the flow record at 2300, 2400, and 0400.
20 Respondent failed to record the waste or to otherwise account for Morphine Sulfate 10 mg.

21 Patient No. 7259239

22 i. On or about May 10, 2004, at 0707 hours, Respondent removed Morphine
23 Sulfate 10 mg./1 ml. vial from the Pyxis, for patient no. 7259239. Respondent charted the
24 administration of 3 mg. Morphine Sulfate in the patient's MAR at 0700 hours, but failed to
25 document the administration in the CCPCFR. Respondent failed to record the waste or to
26 otherwise account for Morphine Sulfate 7 mg.

27 j. On or about May 12, 2004, at 0619 hours, Respondent removed Morphine
28 Sulfate 10 mg./1 ml. vial from the Pyxis, for patient no. 7259239. Respondent charted the

1 administration of 4 mg. Morphine Sulfate in the patient's MAR at 0630 hours, but failed to
2 document the administration in the CCPCFR. Respondent failed to record the waste or to
3 otherwise account for Morphine Sulfate 6 mg.

4 Patient No. 15130325

5 k. On or about May 10, 2004, at 0111 hours, Respondent removed Morphine
6 Sulfate 10 mg./1 ml. vial from the Pyxis, for patient no. 15130325. Respondent failed to chart
7 the administration of Morphine Sulfate 10 mg./1 ml. vial in the patient's MAR and failed to
8 document the administration in the CCPCFR. Respondent failed to record the waste or to
9 otherwise account for Morphine Sulfate 10 mg.

10 l. On or about May 10, 2004, at 0708 hours, Respondent removed Morphine
11 Sulfate 10 mg./1 ml. vial from the Pyxis, for patient no. 15130325. Respondent failed to chart
12 the administration of Morphine Sulfate 10 mg./1 ml. vial in the patient's MAR and failed to
13 document the administration in the CCPCFR. Respondent failed to record the waste or to
14 otherwise account for Morphine Sulfate 10 mg.

15 SECOND CAUSE FOR DISCIPLINE

16 (Unprofessional Conduct: Obtained Controlled Substances by Fraud or Deceit)

17 19. Respondent's license is subject to disciplinary action under section 2761,
18 subdivision (a), on the grounds of unprofessional conduct as defined in section 2762, subdivision
19 (a), for violating Health and Safety Code section 11173, subdivision (a), in that on or about
20 August 22, 2005, during a telephonic interview with the Board and also in a September 15, 2005
21 written declaration, Respondent, by her own admission, stated that while employed as a
22 registered nurse at Kaiser Permanente, she diverted the controlled substance morphine from the
23 hospital for her own personal use.

24 THIRD CAUSE FOR DISCIPLINE

25 (Unprofessional Conduct: Use of a Controlled Substance)

26 20. Respondent's license is subject to disciplinary action under section 2761,
27 subdivision (a), on the grounds of unprofessional conduct as defined in section 2762, subdivision
28 (b), in that on or about August 22, 2005, during a telephonic interview with the Board and also in

1 a September 15, 2005 written declaration, Respondent, by her own admission, stated that while
2 employed as a registered nurse at Kaiser Permanente, she self-administered the controlled
3 substance morphine.

4 PRAYER

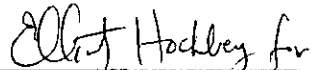
5 WHEREFORE, Complainant requests that a hearing be held on the matters herein
6 alleged and that, following the hearing, the Board issue a decision:

7 1. Revoking or suspending Registered Nurse License No. 425202 issued to
8 Lynn Marie Martin Hoffman.

9 2. Ordering Lynn Marie Martin Hoffman to pay the Board the reasonable
10 costs of the investigation and enforcement of this case pursuant to Business and Professions
11 Code section 125.3;

12 3. Taking such other and further action as deemed necessary and proper.

13 DATED: September 29, 2006

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15 

16 RUTH ANN TERRY, M.P.H., R.N.
17 Executive Officer
18 Board of Registered Nursing
19 State of California
20 Complainant
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